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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

GLENN GERALD ETHIER,

Defendant and Appellant.

G039844

(Super. Ct. No. 04CF2502)

ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING; NO CHANGE IN  
JUDGMENT.

It is ordered that the opinion filed herein on March 12, 2009, be modified in the following particulars:

1. On page 7, last paragraph, delete the last sentence starting with “We agree a person of average disposition . . . .”; and replace with the following sentence: “We agree a person of average disposition may have felt fear when approached by two teenage gang members in front of a store in a rough neighborhood, but would not have been aroused to a passion sufficient to justify deadly force.”

This modification does not effect a change in judgment.

The petition for rehearing is DENIED.

O’LEARY, J.

WE CONCUR:

SILLS, P. J.

FYBEL, J.